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CONNERS
& BERRY

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REGULATORY AUTH.

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March 14, 2001 EXECUTIVE SECRETARY

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David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243

Re: *In Re: Petition for Interconnection Arbitration by DIECA Communications
d/b/a COVAD Communications Company Against BellSouth
Telecommunications Company*
Docket No. 00-01130

Dear David:

Attached please find COVAD's responses to BellSouth's objections to discovery.
Please call with any questions.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: *Henry Walker by*
Henry Walker *wlm w/permission*

HW/wlm

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

In re:)	
Petition for Interconnection Arbitration)	
By DIECA Communications, Inc., d/b/a)	Docket No. 00-01130
Covad Communications Company, Inc.)	
Against BellSouth Telecommunications, Inc.)	

COVAD’S RESPONSE TO BELL SOUTH’S OBJECTIONS TO DATA REQUESTS

DIECA Communications, Inc. d/b/a Covad Communications Company (“Covad”), by and through its undersigned counsel, hereby responds to BellSouth’s objections to its Data Requests. Rather than reviewing Covad’s Data Requests individually and responding appropriately to each request, BellSouth proffered boilerplate objections that should not shield BellSouth from responding to the requests. For example, although Covad specifically referenced arbitration issues by number in its Data Requests, in response to everyone of Covad’s requests, BellSouth requests that Covad “identify which issue and explain how the request relates to that issue . . .” BellSouth then states that it will “reevaluate its position.” Given the aggressive schedule established by the TRA for this proceeding, Covad needs BellSouth’s responses to its Data Requests so that it can prepare testimony due on March 30, 2001. We do not have the luxury of waiting for BellSouth to reevaluate its erroneous position.

COVAD REQUEST No. 1, 2, 3, 4, 5, 6, 8, 10, 11, 12, 14, 17, 18, 25, 26, 27, 28,

1. With regard to Issue 5(a), Covad requests that BellSouth provide information illustrating how long it has taken BellSouth in Tennessee, since August 1999, to provision unbundled ADSL, HDSL, UCL, and ISDN (UDC/IDSL) loops for Covad. BellSouth’s response

should include data which shows, by month, the number of loops provided, the average provisioning interval for those loops, and a description of how BellSouth measures the loop delivery interval.

2. Please provide information illustrating how long it takes BellSouth, on average, to provision unbundled voice grade (SL1) loops and voice grade loops for BellSouth retail operations in Tennessee, since August 1999.

3. In response to Issue 5(a), BellSouth states that, "BellSouth is obligated to provide these facilities in a non-discriminatory manner, . . . Covad is not entitled to have these network elements provisioned more rapidly than BellSouth makes these facilities available to itself or its affiliates." Please explain in detail which facilities and which affiliates in Tennessee, since August 1999, BellSouth is comparing its provisioning of xDSL loops to Covad, such that BellSouth concludes that it is provisioning these in a non-discriminatory manner.

4. In response to issue 5(a), BellSouth states that it has made a manual process for loop makeup information available to Covad. Please provide information regarding the number of manual loop makeup information inquiries conducted on behalf of BellSouth retail operations in Tennessee, since August 1999, including those for BellSouth.net, and the duration by month of the response time for those loop makeup inquiries.

5. In response to issue 5(b), BellSouth states that "BellSouth's interval for IDSL compatible loops, . . . is non-discriminatory and is 5-7 days after the FOC is returned." Please provide data that shows the average loop delivery interval by month of BellSouth's retail ISDN loops in Tennessee since August 1999.

6. In response to Issue 5(c), BellSouth indicates that conditioning loops takes time. Please provide data which shows the average duration of time it takes from placing an order to

condition a loop for retail ISDN or T1 service in Tennessee, since August 1999 to the time that work is completed.

8. With regard to Issue 7, please describe the steps BellSouth has taken in Tennessee, since August 1999, to understand how other incumbent carriers provide DSL service without requiring that loops be designed. Your response should include a explanation of any contacts made by BellSouth's loop product groups with any other incumbent carriers and BellSouth's understanding as to how other carriers provision identical loops to competitive carriers.

10. Please provide information showing what type of OSS charges or other ordering charges, either manual or electronic, are imposed in Tennessee on BellSouth retail DSL customers since August 1999. Your answer should include an explanation of how those charges were developed, how those charges are imposed, and whether those charges are ever waived.

11. Please describe in detail the charges BellSouth in Tennessee seeks to impose on Covad, including a specific dollar amount, for each order Covad places and then must cancel after BellSouth fails to timely provision the loop since August 1999.

12. Please describe whether BellSouth retail DSL customers and BellSouth Internet service provider customers are charged for work done in processing a local service request that is later cancelled for any reason. Your response should include the exact dollar amount of such charges imposed on BellSouth's Internet service provider partners or BellSouth retail customers and the number of times such charge has been imposed since August 1999.

14. Please provide data showing the installation interval for every splitter installed by BellSouth in Tennessee in response to a Covad order since June 2000. Included in your response

should be the entire time from which the order was placed with the BellSouth vendor of splitters to the time final installation was completed.

18. In response to Issue 18, BellSouth admits that it, “owes Covad non-discriminatory access to unbundled network elements.” Please provide information showing the average installation interval, by month since August 1999, for BellSouth DSL service provided over a voice facility in Tennessee.

25. In response to Issue 31, BellSouth has stated that “Covad is in the exact same situation that BellSouth is in. If there are no facilities that can be used to provide the services requested, then Covad, like BellSouth, will just have to wait until there are facilities available.” Please provide information showing the average duration, in Tennessee, by month since August 1999 for which BellSouth retail DSL orders were held pending facilities.

26. In response to Issue 31, BellSouth has stated that “Covad is in the exact same situation that BellSouth is in. If there are no facilities that can be used to provide the services requested, then Covad, like BellSouth, will just have to wait until there are facilities available.” Please provide information showing the average duration, in Tennessee, by month since August 1999 for which BellSouth retail POTS orders were held pending facilities.

27. In response to Issue 31, BellSouth has stated that “Covad is in the exact same situation that BellSouth is in. If there are no facilities that can be used to provide the services requested, then Covad, like BellSouth, will just have to wait until there are facilities available.” Please provide information showing the average duration, in Tennessee, by month since August 1999 for which BellSouth retail ISDN orders were held pending facilities.

28. In response to Issue 31, BellSouth has stated that “Covad is in the exact same situation that BellSouth is in. If there are no facilities that can be used to provide the services

requested, then Covad, like BellSouth, will just have to wait until there are facilities available.” Please provide information showing the average duration, in Tennessee, by month since August 1999 for which BellSouth retail T1 orders were held pending facilities.

BELLSOUTH OBJECTIONS TO DATA REQUESTS 1, 2, 3, 4, 5, 6, 8, 10, 11, 12, 14, 17, 18, 25, 26, 27, 28

BellSouth made the following virtually identical objection to Covad’s Data Requests 1, 2, 3, 4¹, 5, 6, 8, 10, 11, 12, 14, 17, 18, 25, 26, 27, 28.

“BellSouth objects to this data request on the grounds that Covad is seeking information on issues that should be referred to TRA Docket 00-00392 on generic performance measurements [or TRA Docket 00-0544 on generic cost]. If, however, Covad believes that the referenced data request is directed to an issue in this proceeding that is not being referred, if Covad will identify which issues and explain how the request relates to that issue, BellSouth will reevaluate its position. Furthermore, BellSouth objects to this data request on the grounds that it is overly broad and unduly burdensome. Additionally, BellSouth does not maintain this information disaggregated to the level of detail that is requested herein by Covad.”

COVAD’S RESPONSE TO BELLSOUTH OBJECTIONS

First, Covad went to great lengths in its discovery requests to identify and refer directly to pending Issues in the arbitration between Covad and BellSouth. Therefore, there is no reason why Covad should be forced to again identify issues and explain how they relate. Rather, it is BellSouth’s obligation to explain to the TRA why the data requests seek information that is irrelevant to open issues between the parties. For example, Covad seeks information about

BellSouth data on loop delivery and loop conditioning intervals in Data Requests 1-6. These requests relate directly to Arbitration Issues 5(a), 5(b), 5(c), and 18, in which Covad seeks to establish firm loop delivery intervals for xDSL loops and line sharing in its Interconnection Agreement with BellSouth. Moreover, BellSouth responded to Covad's petition with numerous statements that it was providing "nondiscriminatory" intervals and was treating Covad at parity with retail. As a result of those statements, Covad seeks information in Data Requests 3, 4, 5, 6, 10, 12, 18, 20, 25, 26, 27, and 28 to substantiate those BellSouth statements.

Likewise, Data Request 8 seeks information about what steps BellSouth has taken to learn about how other incumbent carrier provision xDSL loops. That Request relates directly to Issue 7, in which Covad asserts that its should not be required to buy and pay for BellSouth's unnecessary and expensive "designed loop" provisioning process. In Data Request 14, 17 and 18 Covad seeks information regarding how BellSouth provisions line sharing to its own retail customers and ISP partners. Likewise, these requests seek information about how long BellSouth has taken to provision splitters to Covad for line sharing. All these requests related direct to Issues 15 and 18. Data Requests 11 and 12 relate to the charges BellSouth seeks to impose on Covad for modifying or canceling a Local Service Request (Issues 6 and 12) and seek information about the amount of money and whether BellSouth's retail operations are faced with similar charges.

Second, Covad has vigorously opposed moving any of the references by BellSouth's objections to another docket. All of Covad's open arbitration issues address critical aspects of interconnection between the two companies. Since Covad and BellSouth were not able to negotiate a resolution, Covad is entitled to arbitrate these issues to establish terms and conditions

¹ With respect to Data Request 4 about loop makeup information, BellSouth's response replaces its standard final sentence with the following, "Additionally, BellSouth currently does not have a measure in place to track manual

for its Interconnection Agreement. Moreover, by trying to move these issues to other dockets, BellSouth is attempting to deprive Covad of its right to obtain resolution of the issues within nine (9) months. _____

Third, BellSouth objects to Covad's Data Requests on the grounds that it does not maintain specific loop data in a form that is sufficiently disaggregated to provide the necessary information to Covad. That is incorrect. Recently, the Georgia Public Service Commission ordered BellSouth to collect and report data on loops that were disaggregated by loop type (ADSL, HDSL, UCL, SL1, ISDN, xDSL, line sharing, etc.). This is the exact type of information Covad is seeking in its data requests. BellSouth's obligation to collect this data became effective as of March 5, 2001. Thus, BellSouth is already under a legal obligation to preserve the exact type of data that Covad is seeking. Furthermore, if it is correct that BellSouth does not have the information appropriately disaggregated, BellSouth should be compelled to produce whatever data it does have that is responsive to these requests. Otherwise, BellSouth must acknowledge that it cannot validate its claim that BellSouth provides nondiscriminatory treatment to Covad. Thus, BellSouth's objection must be overruled and BellSouth should be ordered to produce the requested information expeditiously.

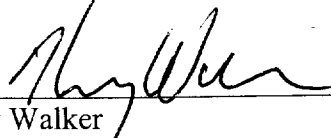
Finally, BellSouth suggests that Covad's Data Requests are unduly burdensome. That cannot be the case. BellSouth has made statements to the TRA and elsewhere asserting that it provides nondiscriminatory treatment to competitors like Covad and service that is at parity with its retail offering. Without data to substantiate these claims, BellSouth would have no basis upon which to make these claims. Thus, Covad seeks access to information that BellSouth certainly must have and should be able to produce electronically without much difficulty.

loop make-up inquiries. However, BellSouth is in the process of implementing such a measurement."

CONCLUSION

Covad respectfully requests that BellSouth's Objections to Covad's Data Requests be denied and that BellSouth be ordered to respond all requests.

This 14th day of March, 2001.



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Attorneys for DIECA Communications,
d/b/a Covad Communications Company

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded via U.S. Mail, postage prepaid, to the following on this the 14 day of March, 2001.

Guy Hicks, Esq.
BellSouth Telecommunications, Inc.
333 Commerce St.
Suite 2101
Nashville, TN 37201-3300


Henry Walker *by him*
w/permission